

In re Patent Application of:  
MCCARTHY ET AL.  
Serial No. 10/779,350  
Filing Date: February 13, 2005

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REMARKS

Applicants appreciate the Examiner's thorough examination of the present application. In view of the arguments presented in detail below, it is submitted that all of the claims are patentable. Reconsideration of the rejection is requested.

I. The Claimed Invention

The present invention is directed to a communications system. As recited in independent Claim 1, for example, the system includes a plurality of source message servers for storing messages for delivery to a user and a target message server having a target message box associated therewith. An aggregation server is also included for periodically aggregating the messages from the source message servers to the target message box for retrieval by the user. The target message server provides a delivery failure message to the aggregation server based upon a failure to deliver a message to the target message box. Moreover, the aggregation server increases a period of sending messages to the target message box based upon a delivery failure message therefrom, and thereafter decreases the period of sending messages to the target message box based upon a successful delivery of a message thereto.

Independent Claim 10 is directed to a related aggregation server, independent Claim 15 is directed to a related message aggregation method, and independent Claim 18 is directed to a related computer-readable medium. As with Claim 1, each of these claims similarly recites periodically aggregating messages from the source message servers to the target message box for retrieval by the user.

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## II. The Claims Are Patentable

The Examiner again rejected Claims 1-22 based upon U.S. Patent No. 6,854,007 to Hammond in view of U.S. Patent No. 6,744,780 to Gu et al. For at least the reasons set forth below, Applicants maintain that the claims are patentable over the cited combination.

Hammond is directed to a system for enhancing the reliability of communicating with electronic messages. The system sends an electronic message to designated recipients, and then automatically helps ensure that each message has been successfully delivered and received within specified periods of time. Gu et al. is directed to a system for managing a communications network that establishes an initial polling interval for a corresponding network element. The network management system adjusts the initial polling interval to a subsequent polling interval to adaptively meet the communications traffic requirements.

In the previous response, Applicants pointed out that Hammond fails to teach an aggregation server for periodically aggregating messages as recited in the independent claims. In the Final Office Action, the Examiner did not address this argument. So, Applicants again emphasize that the Examiner has mischaracterized the teachings of Hammond as the message sender 134 of the Hammond system (see FIG. 1) merely collects the supplied message tracking information, sends the message to the specified recipients, and stores the message tracking information and the message send time in the Message Tracking Table. Hammond does not teach or fairly suggest periodically aggregating messages from a plurality of source message servers to a target message box for retrieval by a user.

Again, the message sender component is performing

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the opposite function to the one recited in the above-noted independent claims. That is, the message sender component is sending messages from a single originating server to a plurality of different recipient servers, rather than taking received messages from a plurality of recipient servers and delivering them to a single aggregated mailbox for the user. Accordingly, the selective combination of references fails to teach all of the elements recited in the above-noted independent claims, and the rejection of these claims should be withdrawn for this reason alone.

Moreover, in the previous response, Applicants also argued that there was no proper motivation for combining the references as the Examiner proposed, as doing so would have rendered Hammond unsatisfactory for its intended purpose. In response, the Examiner points to a teaching in Gu et al. (col. 3, lines 57-60) as support for the allegedly obvious combination of references. The cited portion states that an initial polling interval may be increased responsive to a failure of a network element to send a fault message. Yet, the above-noted independent claims recite that the aggregation server increases the period of sending messages to the target server based upon receiving a delivery failure message therefrom.

Accordingly, Applicants note that the passage cited by the Examiner in Gu et al. is actually contrary to the claimed recitation of increasing the period of sending messages. That is, Gu et al. teaches increasing a polling interval based upon not receiving a failure message, whereas the independent claims recite decreasing a sending interval (i.e., increasing the period of sending) upon receiving a failure notification. As such, the Examiner has still failed to provide proper motivation or suggestion to combine the

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references, and the rejection of the above-noted independent claims should be withdrawn for this reason as well.

As the Examiner is aware, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim features. The initial burden is on the Examiner to provide some suggestion of the desirability of doing what the Applicants have done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the reference must expressly or impliedly suggest the claimed invention or the Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the reference. Both the suggestion to make the claimed combination and the reasonable expectation of success must be founded in the prior art and not in Applicants' disclosure.

There is simply no teaching or suggestion in the cited references to provide the combination of features as claimed. Accordingly, for at least the reasons given above, Applicants maintain that the cited references do not disclose or fairly suggest the invention as set forth in independent Claims 1, 10, 15 and 18. Furthermore, no proper modification of the teachings of these references could result in the invention as claimed. Thus, the rejection under 35 U.S.C. §103(a) should be withdrawn.

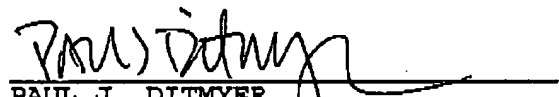
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Accordingly, it is submitted that independent Claims 1, 10, 15 and 18 are patentable over the prior art. Their respective dependent claims, which recite yet further distinguishing features, are also patentable over the prior art and require no further discussion herein.

### III. CONCLUSION

In view of the foregoing, it is submitted that all of the claims are patentable. Accordingly, a Notice of Allowance is respectfully requested in due course. If any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,

  
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### CERTIFICATE OF FACSIMILE TRANSMISSION

I HEREBY CERTIFY that the foregoing correspondence has been forwarded via facsimile number 571-273-8300 to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 this 30<sup>th</sup> day of November, 2005.

